

# COPY

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

JOHN MARSHALL COURTS BUILDING

-----x  
 PHILIP MORRIS COMPANIES, INC., et al.,

Plaintiffs, At Law No.  
 -against- 760CL94X  
 00816-00

AMERICAN BROADCASTING COMPANIES,  
 INC., et al.,

Defendants.

-----x

June 8, 1995  
 10:12 a.m.

HIGHLY CONFIDENTIAL - TRADE SECRET

Videotaped Deposition of WILLIAM GANNAWAY  
 ESTES, taken by Defendants, pursuant to Subpoena,  
 at the offices of McGuire Woods Battle & Boothe,  
 Esqs., 901 East Carey Street, Richmond, Virginia  
 before Lee A. Bursten, a Registered Professional  
 Reporter and Notary Public within and for the  
 Commonwealth of Virginia.

2058449824



**MANHATTAN**  
 REPORTING CORP

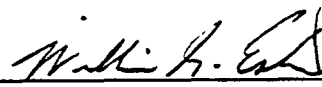
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# ERRATA SHEET

Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

<u>Page</u>	<u>Line</u>	<u>Correction</u>
9	15	Add "but . . . ." after "matter"
10	20	Add "just" before "say"
10	23	From "in" to "within"
12	16	From "services" to "service"
12	19	Add "And" before "What"
13	23	Following "production superintendent?" Estes states
		"I was . . . ." before Killory interrupts with "This
		is all at Park 500, I take it."
14	16	From "ring" to "rank"
15	24	Add "this" after "the"
17	12-13	From "Which one was not" to "Which was the one
		that was"
18	21	From "program" to "policy" or "program"
19	7	Add "Control." before "And"
20	4	From "it" to "there"
		"Braun" to "Brun"
22	16	From "progression" to "position."
22	18	Add "Yeah, while he was." before "In"
23	25	From "parallel" to "in parallel"
25	20	From "changed" to "changed during your tenure."
29	21	From "It" to "Because it"



William G. Estes

## ERRATA SHEET

1 Corrections or changes to the deposition testimony of:

2 WILLIAM G. ESTES

3	<u>Page</u>	<u>Line</u>	<u>Correction</u>
4	33	10	From "supplied" to "supplied or applied by MZM."
5	37	7	From "In connection" to "What was -- In
6			connection"
7	39	25	From "in turn report" to "report in turn"
8	42	6	From "copied. They were back during the winter."
9			to "copied there back during the winter."
10	42	13	From "I would" to "I'm gonna"
11	46	4-5	From "there are provisions in your employment
12			contract which" to "within your employment
13			contract there are provisions that"
14	46	6	Add "Correct?" after "confidentiality?"
15	46	13	From "That's" to "It's in"
16	47	6	From "at" to "at their"
17	48	20	From "You asked . . ." to "The reason Ted -- you
18			asked . . ."
19	48	23	From "where" to "that maybe"
20	50	15	From "I don't recall." to "I may be wrong."
21	50	15	From "says" to "said"
22	50	16	From "consulted." to "consulted -- the one that I
23			recall looking at."
24	56	3	From "do" to "are"
25			

  
William G. Estes

# ERRATA SHEET

Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

<u>Page</u>	<u>Line</u>	<u>Correction</u>
57	8	From "the" to "a"
61	16	From "in" to "for"
64	16	From "So" to "So that"
68	18	From "meant" to "understood"
72	8-9	Delete "those solubles"
86	23	From "supplying" to "that are supplying"
89	18	From "When" to "Back when"
91	12	From "individual" to "individual line"
92	8	From "suggest" to "suggest anything beyond domestic . . . ."
95	4	From "Does it vary over time?" to "Something over time. Does it vary?"
97	24	From "any speculation" to "speculation or guess"
97	24	Add sentence after "object.": "If you have any knowledge you can testify, but if you don't . . . ."
99	2	After "substance?" add "Do you mean as under -- "
99	19	From "to handle" to "handling"
100	17	From "them" to "any"
101	7	From "that was made" to "that's being made"
101	9	From "did" to "do"
101	10	From "was" to "is"



William G. Estes

# ERRATA SHEET

Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

<u>Page</u>	<u>Line</u>	<u>Correction</u>
103	9	From "understand" to "do understand"
106	4	From "way" to "way to do it -- "
107	14	From "asked what you" to "asked him what do you"
109	21	After "You can answer." Estes states, "The question is?"
116	24	From "When you" to "What is -- when you"
123	13	From "in in" to "in"
123	15	From "in in" to "in"
124	18	From "that that" to "that"
133	25	From "you have" to "when you then have"
136	3	From "when" to "one"
136	4	From "brainstorm" to "brainstorming"
139	5	From "boxes below. It talks" to "boxes below where it talks"
141	12	From "Can you" to "You can"
142	3	From "One of" to "It included -- one of"
143	8	From "just" to "should"
148	13	From "I'm counting" to "I have my count"
148	22	From "did" to "do"
149	25	Add "That's right. What's the gallonage?" before



William G. Estes

# ERRATA SHEET

Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

<u>Page</u>	<u>Line</u>	<u>Correction</u>
		sentence beginning with "When"
157	20	From "on" to "on with"
161	18	From "on" to "an"
162	11	From "next" to "text"
163	16	From "understand" to "understood"
164	10	From "or" to "are"
165	12	From "times" to "times when"
166	7	From "change" to "change the"
170	6	From "Production" to "The production"
170	16	From "to be" to "to be on the pad of"
173	22	From "reference" to "the reference"
174	19	From "several" to "several several"
174	22	From "efficient" to "sufficient"
174	25	From "raw solubles" to "raw material solubles"
180	23	From "and" to "versus"
181	23	From "I might say this." to "Well, my view is this."
181	12-13	From "but by" to "but based on"
181	15	From "court" to "court's"
181	16	Delete "him"
183	9	From "1" to "What"
190	5	"From "it" to "it is"

  
William G. Estes

# ERRATA SHEET

Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

	<u>Page</u>	<u>Line</u>	<u>Correction</u>
1	190	24	From "subjectives" to "subjective"
2	191	2	From "subjectives" to "subjective"
3	191	24	From "for" to "for the"
4	197	18	From "the" to "a"
5	199	4	Delete "it"
6	208	11	From "nicotine" to "nicotine level"
7	208	12	Delete ", are you"
8	209	11	From "203033975" to "2030339795"
9	210	2	From "it" to "this"
10	213	14	From "are in" to "are in fact in and in"
11	214	11	From "is" to "that's"
12	214	17	Delete "with"
13	216	15	From "CbK" to "Cpk"
14	216	17	From "CbK" to "Cpk"
15	217	11	From "are" to "continue"
16	219	8	From "earlier" to "early or"
17	219	9	From "later" to "late"
18	220	8-9	From "is not" to "is never appropriate whatever your view."
19	220	9	From "good humor between counsel" to "laughter, good humor between counsel who behave civilly"
20			
21			
22			
23			
24			
25			

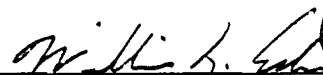
  
William G. Estes

# ERRATA SHEET

Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

	<u>Page</u>	<u>Line</u>	<u>Correction</u>
1	220	15	From "own" to "only"
2	227	12	From "when" to "what"
3	228	19	From "did" to "do"
4	236	14	From "Art" to "RL"
5	239	15	From "directing" to "narrowed"
6	245	25	From "focusing" to "to focus"
7	247	9	From "or" to "and"
8	251	9	From "can be" to "is"
9	252	16	From "subjective" to "objective"
10	259	13	From "of" to "and"
11	259	16	From "completed" to "depleted"
12	264	21	From "306836" to "306837"
13	267	17	Delete "in"
14	267	23	From "at" to "with"
15	279	19	From "your" to "our"
16	280	22	From "is" to "appears to be"
17	295	9	From "referred" to "referring"
18			
19			
20			
21			
22			
23			
24			
25			



William G. Estes

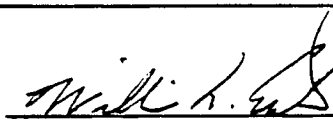


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Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

<u>Page</u>	<u>Line</u>	<u>Correction</u>
16	20	"I" before "Returned"
20	8	"outflow" to "out Flow"
23	11	"Narren" to "Narron"
34	23	"Narren" to "Narron"
36	9	"." after "flavor", not "?"
69	4	After "it." add "No."
81	10	"and" to "in"
82	16	"right" to "bright"
91	2	"receive" to "receiving"
111	23	"processed" to "process"
112	19	"pulp" to "pulper"
120	15	"in the" to "into"
129	2	"cigarette" to "cigarettes"
		"units" to "hence, it"
146	16	"If I" to "In fact"
150	20	"pooled" to "pulled"
154	7-8	"pulp" to "pulped" and delete "pumped"
160	7	"this" to "the"
163	25	Add "Yes." after "aggregate."
173	8	"three" to "300"
174	22	"efficient" to "sufficient"

  
William G. Estes

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Corrections or changes to the deposition testimony of:

WILLIAM G. ESTES

	<u>Page</u>	<u>Line</u>	<u>Correction</u>
1			
2			
3			
4	204	5	"what you're" to "what they are"
5	205	5	"schedule" to "scheduled"
6	214	22	"T. Barfield" to "D. Barfield"
7	216	17	"10" to "1.0"
8	226	21	Add "ART" before "pilot"
9	248	10	"I'll" to "I'd"
10	261	12	"tests done" to "test data"
11	271	4	"Why" to "Were"
12	284	24	"Ciliberta" to "Ciliberto"
13	295	12	"Lanie" to "Lanny"
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23			
24			
25			



William G. Estes

Estes - Highly Confidential - Trade Secret

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Estes - Highly Confidential - Trade Secret

A P P E A R A N C E S: (Continued)

ALSO PRESENT:

SHELLEY SANDERS, Videographer

2058449835

MANHATTAN REPORTING CORP.

1 Estes - Highly Confidential - Trade Secret

2 THE VIDEO OPERATOR: This is the  
3 video operator speaking, Shelley Sanders, CLVS,  
4 of Action Legal Video, Incorporated, located at  
5 132 Nassau Street, New York, New York.

6 We are here today, this day, June  
7 8th, 1995, at the time continuously recorded on  
8 the videotape, at the offices of McGuire Woods,  
9 located at 901 East Cary Street, Richmond,  
10 Virginia, to take the video deposition of William  
11 G. Estes, on behalf of the defendants, in the  
12 matter of Philip Morris Companies, Incorporated,  
13 et al. versus American Broadcasting Companies,  
14 Incorporated, et al., in the Circuit Court for  
15 the City of Richmond, Virginia, John Marshall  
16 Courts Building, At Law Number 760CL94X  
17 00816-00.

18 Will counsel please introduce  
19 themselves.

20 MR. KILLORY: I'm Ted Killory from  
21 the firm of Wilmer, Cutler & Pickering,  
22 representing the defendants in the action she  
23 just described.

24 MR. NUNLEY: I'm Chip Nunley from  
25 Hunton & Williams, representing the plaintiffs,

1           Estes - Highly Confidential - Trade Secret  
2 Philip Morris Companies, Inc. and Philip Morris  
3 Incorporated. I might note the co-counsel for  
4 defense is McGuire Woods Battle & Boothe,  
5 justifiably proud of their firm, and we'll get it  
6 right now on the record.

7           MR. KILLORY: Mr. Estes, could you  
8 state your full name and address for the record.

9           THE WITNESS: William Gannaway Estes,  
10 E-S-T-E-S.

11           W I L L I A M   G A N N A W A Y   E S T E S,  
12 residing at [DELETED]

13                               having been first duly  
14 sworn by the Notary Public (Lee A. Bursten), was  
15 examined and testified as follows:

16           THE VIDEO OPERATOR: We're going off  
17 the record. The time on the screen is 10:14:40.

18                               (Discussion off the record.)

19           THE VIDEO OPERATOR: We're back on  
20 the record. The time on the screen is 10:20:36.

21           EXAMINATION BY MR. KILLORY:

10:20:40 22           Q. Mr. Estes, now that we've cleared up  
23 our computer difficulties, let's recommence.  
24 Could you state again your full name and address  
25 for the record.

1 Estes - Highly Confidential - Trade Secret

2 A. William Gannaway Estes, E-S-T-E-S;

3

4

REDACTED

10:21:02 5 Q. I would like to ask a few background  
6 questions just to get a sense of your education,  
7 employment history, that sort of thing. Could  
8 you tell me where you attended school?

9 A. I received a BA in business  
10 administration from Elon College in North  
11 Carolina.

10:21:20 12 Q. What year was that?

13 A. In 1971.

10:21:24 14 Q. Any postgraduate education, formal  
15 seminar programs, that sort of thing?

16 A. No major ones.

10:21:32 17

18

19

20

REDACTED

10:21:46 21 Q. Then after that?

22 A. I was hired by Philip Morris, U.S.A.  
23 in January 1975.

10:21:58 24 Q. How did you come to be employed by  
25 Philip Morris? Did you respond to an

2058449838

1           Estes - Highly Confidential - Trade Secret  
2 advertisement or --

3           A.     Referred by an employment agency.

10:22:08 4           Q.     What was your first position with  
5 Philip Morris?

6           A.     The job title was unit supervisor.

10:22:14 7           Q.     Where was that?

8           A.     It was part of the startup team for  
9 the Park 500 facility, and at the time I was  
10 working at R&D.

10:22:26 11          Q.     I'm sorry.

12          A.     At research and development.

22:34 13          Q.     In that first position as a unit  
14 supervisor you were working formally in R&D?

15          A.     Yes.

10:22:40 16          Q.     Now, you say as part of the startup  
17 team. What were the responsibilities of the  
18 startup team?

19          A.     Was to start up the Park 500  
20 facility, which was under construction when I was  
21 hired.

10:22:54 22          Q.     And as a unit supervisor and a member  
23 of the team, what were your particular  
24 responsibilities in connection with the startup?

25          A.     Hire, train hourly employees, check

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1 Estes - Highly Confidential - Trade Secret  
2 out equipment.

10:23:08 3 Q. So it wasn't the installation of the  
4 equipment or the design of the layout of the  
5 plant; it was to prepare for operating the plant  
6 once it was up and going. Is that correct?

7 A. Yes.

10:23:20 8 Q. You hesitated. Was there also a sort  
9 of a design component as well?

10 A. No.

10:23:26 11 Q. How long did you have the position of  
12 unit supervisor?

13 A. I believe until 1978.

10:23:38 14 Q. What was the unit called that you  
15 were supervising?

16 A. The first position I had was setting  
17 up the shipping department. Then I was a machine  
18 room supervisor during that time frame, and a  
19 stock preparation supervisor, as I recall.

10:24:06 20 Q. And this is all in the 1975 to 1978  
21 time frame?

22 A. Yes.

10:24:12 23 Q. The shipping department involved  
24 receipt of materials, or the shipping of finished  
25 product?

1 Estes - Highly Confidential - Trade Secret

2 A. Shipping of finished product.

10:24:20

3 Q. Do you recall when the plant actually  
4 went on line, went into production, the Park 500  
5 plant?

6 A. Somewhere in the November/December  
7 1975 time frame.

10:24:40

8 Q. And how many employees did you have  
9 reporting to you in the position of unit  
10 supervisor?

11 MR. NUNLEY: At what time, Ted?

12 MR. KILLORY: Again, during this  
13 1975-1978 time frame.

10:24:52

14 Q. Ball park figure. If it varied  
15 slightly, it doesn't matter, *But*

16 A. Some occasions, one. Others, a  
17 maximum of five.

10:25:02

18 Q. In addition to the shipping  
19 department, you mentioned the machine room. Is  
20 the machine room -- it's part of the RL process  
21 that goes on at Park 500; is that correct?

22 A. Yes.

10:25:14

23 Q. What part of the process is that?  
24 What goes on in the machine room?

25 A. It's the paper making part of the

1           Estes - Highly Confidential - Trade Secret  
2 process.

10:25:24 3           Q.       And the stock prep is what part of  
4 the process?

5           A.       It's -- "stock prep" is also paper  
6 making terminology. So it's preparing the stock  
7 to be made into paper.

10:25:46 8           Q.       Does stock prep also encompass the  
9 liquids that are extracted from the sheet, or is  
10 it strictly the paper?

11          A.       I don't understand the question.

10:25:56 12          Q.       And that raises a very good point.  
13 If at any time in asking these questions -- I'm  
14 going to be dealing with terminology that's of  
15 only recent familiarity with me, and in many  
16 cases I'm not fully familiar even at this date,  
17 so you know it far better than I.

18                   So if I misstate something so a  
19 question is confusing or you don't understand it  
20 for any reason, don't hesitate to <sup>Just</sup> say what you  
21 just said and ask me to clarify the question.

22                   Stock prep, I'm trying to understand  
23 the full parameters of what's covered <sup>within</sup> in stock  
24 prep. It's a term that comes up in a number of  
25 documents, as to whether it is exclusively

1           Estes - Highly Confidential - Trade Secret  
2       devoted to -- in the RL process, which we'll get  
3       into in far more detail, the sheet is separated  
4       from the solubles, which I referred to as the  
5       liquids in the past question, somewhat  
6       imprecisely, and all my question at this point is  
7       limited to is whether "stock prep" as you've used  
8       it refers to a specific part of the production  
9       process that only oversees the sheet, or does it  
10      also include the solubles.

11                   MR. NUNLEY: Ted, I object to the  
12      form of the question. Do you understand this  
13      question? Can you understand this question?

14                   THE WITNESS: Not exactly.

10:27:12 15           Q.      Okay. Tell me about stock prep.  
16      What exactly is within the parameters of what you  
17      supervised as a unit supervisor in stock prep?  
18      You said paper. What does that mean?

19           A.      Do you mean what equipment, or what  
20      processes?

10:27:24 21           Q.      Both. Let's start with the  
22      equipment.

23           A.      The major equipment components are  
24      the pulpers, the presses, the evaporators, and  
25      associated cleanup equipment prior to, and the

1           Estes - Highly Confidential - Trade Secret  
2           refiners.

10:27:58 3           Q.     And the processes are the ones that  
4           go along with that equipment, I take it?

5           A.     Yes.

10:28:04 6           Q.     We'll get into that a little more in  
7           a few minutes. What parts of the RL production  
8           process are not encompassed within stock prep?

9           A.     You mean major --

10:28:18 10          Q.     That's right.

11          A.     -- areas of the plant?

10:28:20 12          Q.     That's right.

13          A.     Receiving, blending, machine room,  
14          and shipping.

10:28:32 15          Q.     Tell me, after you concluded your  
16          service as unit supervisor in 1978, were you  
17          promoted to another position?

18          A.     Yes.

10:28:40 19          Q.     And What was that position?

20          A.     Production group supervisor.

10:28:44 21          Q.     Tell me about what your  
22          responsibilities were in that position.

23          A.     The production supervisors on a shift  
24          basis reported to me.

29:02 25          Q.     How many production supervisors were

1 Estes - Highly Confidential - Trade Secret  
2 there?

3 A. Five, I believe.

10:29:14 4 Q. And the production groups were? The  
5 names of the production groups. I'm trying to  
6 understand how Park 500 was and is grouped and  
7 organized. Now, I take it there are five  
8 production groups that reported to you. What  
9 were those groups? Were they all doing the same  
10 thing, or different things?

11 MR. NUNLEY: Objection to form.

10:29:32 12 Q. You can answer if you understand.

13 A. The blending supervisor, two stock  
14 prep supervisors and two machine room  
15 supervisors.

10:29:44 16 Q. And how long did you hold that  
17 position?

18 A. I believe until 1980.

10:29:58 19 Q. And what position did you assume in  
20 1980?

21 A. Production superintendent.

10:30:04 22 Q. Again, same question. What were your  
23 responsibilities as production superintendent?

24 *A. I was...*  
*B.* This is all at Park 500, I take it.

25 A. Yes.

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1 Estes - Highly Confidential - Trade Secret

10:30:12 2 Q. Have you worked at any other Philip  
3 Morris facility in your career with the company?

4 A. Yes.

10:30:18 5 Q. Which ones?

6 A. The export blended strip operation,  
7 which was at their 20th Street facility.

10:30:32 8 Q. Let's keep it in chronological  
9 order. 1980, production superintendent. How  
10 many people are reporting to you, approximately?

11 A. Two production group supervisors  
12 directly reporting to me.

10:30:50 13 Q. So in the chain of command, this was  
14 a level above the production group supervisor  
15 that you had just been serving in, but the same  
16 area of the plant, one <sup>RANK</sup> ~~ring~~ higher up; is that  
17 right?

18 A. Yes.

10:31:02 19 Q. And how long did you serve in that  
20 position?

21 A. I believe until 1982, '1 or '2, I  
22 can't remember exactly.

10:31:22 23 Q. And then in '81 or '82, what was your  
24 next position?

25 A. The title was still superintendent of

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2           production. The job duties were different.

10:31:34 3           Q.       What was the change in job duties?  
4           What were they and what did they become?

5           A.       I was a production shift  
6           superintendent, so I was in charge of one of four  
7           rotating shifts. In 1981 or '2 I remained in the  
8           production department, but I was in charge of the  
9           shipping and receiving, budgets, other production  
10          administrative duties. Kind of assistant to the  
11          production manager.

10:32:12 12          Q.       And when you say "in charge of  
13          shifts," these are production shifts of four  
14          shifts a day; is that correct?

15          A.       Three a day.

10:32:26 16          Q.       So you were in charge of one of those  
17          three shifts?

18          A.       Well, there were four shifts.

10:32:32 19          Q.       Okay. Help me out. There were three  
20          shifts a day but there were four shifts. An  
21          alternating pattern of shifts, or --

22          A.       It's a seven-day-a-week operation, so  
23          one shift is always off and three are working.

10:32:50 24          Q.       How long did you hold the <sup>this</sup> second  
25          superintendent of production position as you've



1 Estes - Highly Confidential - Trade Secret  
2 described it? Until when?

3 A. Until 1984.

10:33:04 4 Q. And then you assumed what position?

5 A. I went to the export blended strip  
6 operation as a production superintendent.

10:33:14 7 Q. You said that was at the 20th Street  
8 facility; is that correct?

9 A. Yes.

10:33:18 10 Q. Is that here in Richmond?

11 A. Yes.

10:33:22 12 Q. Tell me what goes on at the export  
13 blended strip operation.

14 A. They're blending leaf tobacco for  
15 export to licensees and affiliates.

10:33:36 16 Q. And how long did you hold that  
17 position?

18 A. Until 1986.

10:33:46 19 Q. And then in '86?

20 A. I Returned to Park 500 as the line 1  
21 and 2 production superintendent.

10:34:00 22 Q. At that time, were there two lines or  
23 three lines, production lines at Park 500?

24 MR. NUNLEY: Which time, Ted? In  
25 '86?

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10:34:08 2 Q. In 1986, when you assumed that  
3 position.

4 A. There were three lines constructed.  
5 We were only operating two.

10:34:16 6 Q. So the third line had been built at  
7 that time, but it just was not in operation?

8 A. That's correct. Well --

10:34:24 9 Q. I'm sorry. Go ahead.

10 A. The line 3 was in operation. One of  
11 the other ones was not.

10:34:36 12 Q. / <sup>WHICH WAS THE ONE THAT WAS</sup>  
~~Which one was not~~ in operation at  
13 that time, 1986?

14 A. Line 1, I believe.

10:34:44 15 Q. Is line 1 the oldest of the three  
16 lines?

17 A. Yes.

10:34:48 18 Q. Why wasn't it in operation at that  
19 time?

20 A. It was being overhauled.

10:34:54 21 Q. So you were in charge of 1, which was  
22 being overhauled, and line 2, which was in  
23 production at that time, in 1986?

24 A. That's correct.

10:35:08 25 Q. Next position after that position in

1           Estes - Highly Confidential - Trade Secret  
2           1986? How long did you stay in that?

3           A.       I believe it was until like early  
4           1989. It may have been late '88. I became a  
5           member of the core team that was implementing the  
6           line 1 and 2 SPC system.

10:35:44 7           Q.       Tell me what the SPC system was or  
8           is.

9           A.       It's a statistical process control  
10          scheme for operating the facility.

10:35:58 11          Q.       Is that a form of quality control  
12          management? When you say "statistical process  
13          control," what does that mean? Installing  
14          computer systems or other methods of  
15          measurement?

16                   MR. NUNLEY: You want him to --

10:36:16 17          Q.       Tell me what SPC meant at Philip  
18          Morris at that time, at Park 500. Is this a  
19          company-wide -- is SPC something company-wide,  
20          and this was the implementation of sort of a  
21          company-wide <sup>Policy or Program</sup> ~~program~~ at Park 500 and other  
22          facilities, or was it Park 500-specific, do you  
23          know?

24          A.       We were the first in the company to  
25          study it.

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10:36:40 2 Q. And could you describe for me what --  
3 you've told me what SPC stands for. What does it  
4 mean in layman's terms, the statistical process?  
5 What does the C stand for again?

6 A. Control.

10:36:52 7 Q. ~~Control~~ And what does that translate into in  
8 real job function?

9 A. It's basically a control scheme using  
10 standards which mean running to a specific level  
11 all the time, and/or control charts to control  
12 variations and other parts of the process that do  
13 vary.

10:37:22 14 Q. So as part of the SPC program, it  
15 would be installing systems of measurement, and I  
16 use "measurement" in the broad sense, but systems  
17 of measurement along the various steps in the  
18 process as well as at the final output stage; is  
19 that correct?

20 A. That's correct.

10:37:44 21 Q. How did you -- when did you first  
22 learn the RL process, and by that I mean learn  
23 about how RL was produced, which is the product  
24 at Park 500, when you first came to the  
25 company --

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2 A. In 1975, at R&D.

10:38:00 3 Q. And in what manner did you learn  
4 about RL? Was <sup>THERE</sup> ~~it~~ a formal seminar program or a  
5 manual or --

6 A. Training, as I recall, by people that  
7 were already familiar with it, going over  
8 blueprints, tracing <sup>OUT FLOW</sup> ~~outflow~~, observing the  
9 process being run in the pilot facility.

10:38:32 10 Q. Anybody designated to formally  
11 conduct training, any individual that you  
12 recall?

13 A. I can't recall.

10:38:48 14 Q. As a member of the core team in 1989  
15 installing the SPC program, how long did you stay  
16 in that position?

17 A. I believe to the first part of 1990.  
18 That's approximate.

10:39:14 19 Q. And what position did you assume  
20 then, early 1990?

21 A. I became the production support  
22 superintendent.

10:39:28 23 Q. Let's backtrack to the SPC program.  
24 Who were the other members of the core team? Was  
25 it a large group or a small group of people?

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2 A. As I recall, there were eight to ten  
3 people on the core team.

10:39:38 4 Q. Who were some of the people that you  
5 can recall?

6 A. By name?

10:39:42 7 Q. Yes.

8 A. Bob Young. Cindy Rustin. Tom  
9 Bullock. Bob Cummings. Bill Ford. Kenneth  
10 ~~BRAUN~~  
~~Braun, B-R-A-U-N.~~ David Clark. I think that's  
11 all of them.

10:40:26 12 Q. Within that group of people in the  
13 core team, were there individual areas of  
14 different responsibility? In other words, in  
15 installing the SPC system at Park 500, did  
16 members of that core team have different parts of  
17 the production process that they were responsible  
18 for?

19 A. Primary responsibility, yes.

10:40:50 20 Q. And what was your primary  
21 responsibility?

22 A. Blending and receiving.

10:41:08 23 Q. And as production support supervisor  
24 starting in early 1990, your responsibilities  
25 included what?

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2 A. It was production support  
3 superintendent.

10:41:16 4 Q. Superintendent, excuse me.

5 A. And I was in charge of the blending  
6 operation on all three lines, shipping,  
7 receiving, and a group we call production  
8 support, which was additional manpower to assist  
9 in the process.

10:41:48 10 Q. How long did you stay in that  
11 position of production support superintendent?

12 A. I believe until 1992.

10:42:02 13 Q. Did your responsibilities change at  
14 all during that time, 1990 to 1992, or did they  
15 pretty much stay the same?

16 MR. NUNLEY: In the same, <sup>Position</sup>~~progression~~,  
17 you mean?

10:42:10 18 Q. <sup>Yeah, while he was</sup> In one of the earlier positions you  
19 mentioned that your title stayed the same and yet  
20 your responsibilities changed. If that's the  
21 case with any of these other positions, I would  
22 expect you to point that out, too.

23 But I was just questioning whether  
24 your responsibilities changed at all during the  
25 time you served as production support

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2 superintendent, just in that position.

3 A. No, they did not.

10:42:28 4 Q. 1992, your position became what?

5 A. Stock preparation superintendent.

10:42:42 6 Q. To whom were you reporting as stock  
7 prep superintendent?

8 A. As I recall, I had three superiors  
9 during that time frame.

10:42:58 10 Q. And who were they?

11 A. Jimmy, <sup>NARRON</sup>~~Narrron~~, Tom Newman, and  
12 Priscilla Jamison.

43:24 13 Q. Their positions at that time were?

14 A. Manager of manufacturing operations.

10:43:36 15 Q. All three?

16 A. Yes.

10:43:42 17 Q. With different areas of  
18 responsibility? Why three?

19 MR. NUNLEY: If you know why.

10:43:48 20 Q. If you know.

21 A. Chronologically they changed.

10:43:52 22 Q. I see. That was the succession of  
23 people to whom you reported, they all held the  
24 same position in sequence?

25 A. They were in series, not <sup>IN PARALLEL</sup>~~parallel~~.



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10:44:00 2 Q. Thank you. You mentioned when you  
3 first came to the company, you mentioned you were  
4 part of R&D. Did you continue to be part of R&D  
5 in your service at Park 500 in these positions,  
6 or part of the manufacturing operation, or are  
7 they different?

8 MR. NUNLEY: Objection to form.

10:44:18 9 Q. It's a compound question. I asked a  
10 lot in one question. If you can answer, go  
11 ahead.

12 MR. NUNLEY: Same objection. You can  
13 answer, if you can.

10:44:30 14 Q. When did you -- did you continue to  
15 serve as a member of the R&D department  
16 throughout your tenure?

17 A. No.

10:44:36 18 Q. When did you stop becoming a member  
19 of the R&D department?

20 A. To the best of my knowledge, when I  
21 physically reported to Park 500, in 1975.

10:44:52 22 Q. You mean virtually at the outset of  
23 your tenure with Philip Morris?

24 A. Yes.

44:58 25 Q. So in all these positions with --

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2       let's exclude the export blended strip operation,  
3       but in all your service with Park 500, what  
4       division or department of the company, of Philip  
5       Morris, were you a part of? The manufacturing,  
6       is that what it's called?

7           A.     Could you restate the question?

10:45:24 8           Q.     Sure. I'm trying to get a sense of  
9       where Park 500 fits in the overall structure of  
10       Philip Morris on an organization chart. And I'm  
11       just curious as to when you were serving in the  
12       positions you served at at Park 500, you were a  
13       part of what -- what's the next larger  
14       division -- Park 500 is a facility, correct?

15           A.     That's correct.

10:45:46 16          Q.     Stepping up one level from facility,  
17       to what part of the organization did Park 500  
18       belong?

19           A.     During what time frame?

10:45:56 20          Q.     Take me through it if it <sup>changed during your</sup> ~~changed.~~ <sup>TENURE</sup>  
21       The first started in 1975, when you left R&D,  
22       reported to Park 500, what part of the company  
23       were you reporting to?

24           A.     I'm not certain, in the first two or  
25       three years, exactly what the reporting

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2 relationship was. Currently, and probably back  
3 to the early '80s, we have been part of what's  
4 known as the Richmond processing plants.

10:46:34 5           Q.       What are the other -- you're located  
6 at -- when I say "your," the Park 500 facility is  
7 located in Chesterfield County; is that correct?

8           A.       Yes.

10:46:42 9           Q.       But you are included with the  
10 Richmond processing plants, which included what  
11 other plants?

12           A.       The blended leaf plant, the flavor  
13 center, Bermuda Hundred when it was in operation,  
14 export blended strip when it was in operation,  
15 and the stemming operation, and the Oriental  
16 tobacco operation.

10:47:30 17           Q.       And what was the relationship, if you  
18 know, between the Richmond processing plants and  
19 R&D where you had first reported when you first  
20 came to the company?

21           MR. NUNLEY:   Objection to the form.  
22 How do you mean, Ted, "relationship"?

10:47:44 23           Q.       Corporate relationship. Was there  
24 any cross reporting, or on an organizational  
25 chart did the Richmond plants have any

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2 relationship in an organizational sense with  
3 R&D?

4           A.     Not to my knowledge.

10:48:04 5           Q.     What is the MZM facility?

6           A.     You mean what does MZM stand for?

10:48:14 7           Q.     Exactly. You can usually assume that  
8 most of my questions, if they sound simple, take  
9 the simplest interpretation.

10           A.     It stands for Mackin Zimmer McGill.

10:48:26 11          Q.     Are those names -- do those names  
12 have any particular significance?

13           A.     They do contract work for us. And  
14 they're a part of Universal Leaf Tobacco.

10:48:46 15          Q.     In the course of -- covering a long  
16 period of time, but in the course of your  
17 employment in the various positions with Park  
18 500, would you have had -- did you have  
19 interactions with Philip Morris employees from  
20 R&D?

21                   MR. NUNLEY: Objection as to form.  
22 Interactions, you mean social level, business  
23 level?

10:49:06 24          Q.     Business. I don't care whether you  
25 had them over to your house. I mean in the

1           Estes - Highly Confidential - Trade Secret  
2           course of doing your duties as -- in these  
3           various production positions, supervisory  
4           positions at Park 500, would you have contact --  
5           did you have contact with R&D employees?

6                   MR. NUNLEY:   Objection as to form.  
7           You can answer, if you understand the question.

8           A.       Yes.

10:49:32 9           Q.       What would be the typical context of  
10           those contacts?

11                   MR. NUNLEY:   I assume there was a  
12           typical context.

49:48 13           Q.       Okay.   I want to know each and every  
14           context to the extent you can remember what the  
15           subject matters of the context -- can you think  
16           back, it's a long period of time, let's try and  
17           shorten it, but do you want to take me through  
18           the first time you can recall having contact with  
19           R&D?   Does it make sense to march through each  
20           one?   Are there typical contacts?

21                   MR. NUNLEY:   Objection as to form.

10:50:14 22           Q.       You can answer.   Typical subject  
23           matters is what I mean by that.   I don't mean did  
24           you say the same thing on the phone.   You  
25           understand the question, correct?

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2 A. When you say "typical" --

10:50:28 3 Q. That's fair enough. What are the  
4 subject matters in which you can recall having  
5 contacts, business contacts with R&D people in  
6 the course of your employment at Park 500?

7 A. Well, initially on the startup of  
8 line 1 at Park 500, as I recall, they are  
9 normally involved in flavor changes. There has  
10 been some involvement in raw material changes.  
11 And there's been involvement in new equipment  
12 testing.

10:51:34 13 Q. How often are there flavor changes?

14 MR. NUNLEY: You mean currently?

10:51:38 15 Q. In the course of your 20 years'  
16 experience at Park 500 on an annual basis, how  
17 many flavor changes would you get in a year?

18 A. I'm not sure what you mean by that  
19 term.

10:51:54 20 Q. Okay.

21 A. <sup>Because it</sup> / ~~It~~ means different things.

10:51:58 22 Q. Okay. Why don't you help me out.  
23 What are the different meanings of flavor  
24 changes?

25 A. The most common meaning of the word

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2           is when we change from one flavor system to  
3           another in the course of production.

10:52:20 4           Q.     And when you say "change from one  
5           flavor system," what do you mean by "flavor  
6           system"?

7           A.     There are two flavor systems that we  
8           currently run at Park 500.

10:52:32 9           Q.     What are those two?

10          A.     They're called 150 B, it's kind of  
11          the slang name for it, and the other one is  
12          called cooked flavor.

52:54 13          Q.     What's the difference between the 150  
14          B flavor system and the cooked flavor system?

15          A.     The constituents in them.

10:53:02 16          Q.     What are the different purposes to  
17          which the two different flavor systems are used?  
18          Why one flavor system for one product and another  
19          flavor system for another product, is that what  
20          it is?

21          A.     Yes.

10:53:22 22          Q.     So what are the circumstances that  
23          lead you to change from one to another, is what  
24          I'm asking.

25                   MR. NUNLEY:   If you know.

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2 A. We have to produce a certain amount  
3 of each flavor system during the course of a  
4 year. So that necessitates changing flavors on a  
5 line in order to meet those production demands.

10:53:52 6 Q. Do you know whether those different  
7 flavors are for different cigarettes,  
8 ultimately?

9 A. I do not.

10:54:00 10 Q. When you mentioned that MZM performed  
11 contract work, what's the nature of the contract  
12 work that MZM -- which is a part of Universal  
13 Flavors; is that correct?

14 MR. NUNLEY: Objection. That's not  
15 the testimony.

10:54:16 16 Q. I'm sorry. MZM is a part of what  
17 company?

18 A. Universal Leaf.

10:54:24 19 Q. Universal Leaf. Excuse me. What is  
20 the nature of the contract work that they do for  
21 you at that facility?

22 A. The only one I have specific  
23 knowledge of is export blended strip.

10:54:42 24 Q. Do you know who supplies the raw  
25 materials to MZM?



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2 A. Philip Morris.

10:54:52 3 Q. So Philip Morris provides the raw  
4 materials that MZM processes in some form and  
5 then MZM sends it back to Philip Morris; is that  
6 correct, or am I mistaken?

7 MR. NUNLEY: Ted, I'm not going to  
8 stop you in the line of questioning, but clearly  
9 it's identified as export, and I think the judge  
10 has said export is out of the case.

11 MR. KILLORY: I'm just trying to  
12 understand where it fits and understand exactly  
13 what MZM does. I'm not going to probe it very  
14 far, Chip.

10:55:20 15 Q. I'm just trying to understand where  
16 this facility that does contract work fits into  
17 the Philip Morris production process. Philip  
18 Morris supplies raw materials to MZM. MZM  
19 processes it; is that correct?

20 A. Blends it.

10:55:38 21 Q. That blend is then immediately sent  
22 for export?

23 A. Yes.

10:55:42 24 Q. It does not go to some other Philip  
25 Morris facility in the United States?

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2 A. That's correct.

10:55:52 3 Q. Do you know who supplies the flavors  
4 to MZM? Is that also Philip Morris?

5 MR. NUNLEY: Objection as to  
6 foundation.

10:56:00 7 Q. Are there flavors --

8 MR. NUNLEY: Excuse me. I don't know  
9 that there's any testimony that flavors are  
10 ~~supplied~~, supplied or Applied by MZM

11 MR. KILLORY: Point well taken.

10:56:06 12 Q. Do you know whether flavors are  
13 supplied to MZM?

14 A. I know that they use flavors in  
15 export strip. I don't have specific knowledge of  
16 from whence they come.

10:56:34 17 Q. The last position we were discussing  
18 was the position of stock prep superintendent  
19 that you took in 1992.

20 A. Yes.

10:56:42 21 Q. You continued in that position until  
22 when?

23 A. Fall of 1993.

10:56:54 24 Q. At which time you took what  
25 position?

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2 A. Plant shift coordinator.

10:57:04 3 Q. Your responsibilities in that  
4 position were what?

5 A. In charge of Park 500 on the back  
6 shifts and weekends.

10:57:18 7 Q. Reporting to whom? The plant  
8 superintendent?

9 A. To the operation services manager.

10:57:26 10 Q. Who was whom in 1993?

11 A. Cherie Spellmeyer.

10:57:42 12 Q. Any other people who held that  
13 position while you were plant shift coordinator?

14 A. Gordon McConnell.

10:57:52 15 Q. Is the operation service manager in  
16 charge of the entire Park 500 plant?

17 A. No.

10:57:58 18 Q. To whom do they report?

19 A. To the plant manager of Park 500.

10:58:06 20 Q. Who was the plant manager in 1993?

21 MR. NUNLEY: At Park 500?

10:58:10 22 Q. At Park 500.

23 A. Jimmy <sup>NARRON</sup> ~~NARRON~~.

10:58:20 24 Q. Is he still in that position today?

25 A. Yes.

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10:58:26 2 Q. Who is the current operation service  
3 manager? Gordon McConnell?

4 A. Yes.

10:58:36 5 Q. Have you taken any subsequent  
6 positions since becoming plant shift coordinator  
7 in the fall of '93?

8 A. No.

10:58:44 9 Q. So that's your current position with  
10 the company?

11 A. Yes.

10:58:52 12 Q. Do you know what the ingredients of  
13 the 150 B flavors are?

14 A. You mean can I name all of them?

10:59:06 15 Q. Could you?

16 A. I can attempt to.

17 MR. NUNLEY: Do you mean current?

18 MR. KILLORY: Yes.

10:59:12 19 Q. Could you attempt to? To the best  
20 you can.

21 A. DAP, D-A-P, which is diammonium  
22 phosphate; urea, U-R-E-A, I don't know the  
23 chemical name for it; Isosweet, I-S-O-S-W-E-E-T;  
24 a flavoring called Jono, J-O-N-O; a flavoring  
25 called M-10; potassium sorbate; propylene glycol;

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2           and glycerine mixture; and paraben.

3                   MR. NUNLEY: Just before we go on, is  
4           everyone signatory to the protective order?

5                   MR. KILLORY: Yes.

6                   MR. NUNLEY: Thank you.

11:00:54 7           Q.     And how about the cooked flavor  
8           system? What are the ingredients there?

9                   A.     Cooked flavor. The propylene glycol  
10          slash glycerine. Potassium sorbate. Paraben. I  
11          think that's it.

11:01:38 12          Q.     Do you know why DAP, the diammonium  
13          phosphate, is used in the flavor system for the  
14          RL?

15                  A.     I understand it has to do with burn  
16          characteristics of the product.

11:01:56 17          Q.     What do you mean by that? Does it  
18          enhance the burning speed, or by "burn  
19          characteristics," what do you mean?

20                  A.     That's all I know.

11:02:06 21          Q.     Do you understand it to have any  
22          impact on the flavor, used in a layman's sense of  
23          flavor, of the RL product?

24                  A.     I have heard that it is discernible.

11:02:26 25          Q.     That the diammonium phosphate is a

1 Estes - Highly Confidential - Trade Secret  
2 discernible flavor?

3 A. Yes.

11:02:38 4 Q. Have you ever testified at a  
5 deposition before?

6 A. Yes.

11:02:42 7 Q. ~~What was...~~ *IN CONNECTION*  
~~in connection~~ with what case?

8 A. My divorce case.

11:02:48 9 Q. Anything in connection with your  
10 business life, let me put it -- in your service  
11 with Philip Morris, have you ever testified in  
12 connection with that in a deposition?

13 A. No.

11:02:56 14 Q. At a trial?

15 A. No.

11:03:00 16 Q. You understand that your testimony  
17 here is sworn testimony as though you were at  
18 trial; correct?

19 A. Yes.

11:03:08 20 Q. Did you ever testify before any  
21 government agency or -- any government agency,  
22 we'll leave it at that.

23 A. No.

11:03:14 24 Q. Did you ever sign an affidavit?

25 A. In connection with business?

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11:03:20 2 Q. Yes.

3 A. No.

11:03:30 4 Q. Did you consult with Philip Morris  
5 lawyers in connection with this deposition?

6 A. Yes.

11:03:32 7 Q. When did you do that?

8 A. Thursday and Friday of last week and  
9 to some extent each day this week, Monday through  
10 Wednesday.

11 MR. NUNLEY: Could we just say on  
12 that point, if I could, that this deposition I  
13 believe was originally scheduled for Monday --  
14 for Tuesday, excuse me. Mr. Estes had a funeral  
15 Monday afternoon, and through Mr. Killory and  
16 Mr. Payton's consideration, the deposition was  
17 rescheduled, and we appreciate that.

11:04:12 18 Q. Apart from -- had you talked, before  
19 those instances of consulting with the lawyers,  
20 had you talked with Philip Morris lawyers before  
21 those sessions about this case in connection with  
22 this case?

23 A. No.

11:04:26 24 Q. Any in-house Philip Morris lawyers or  
25 outside counsel?

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2 A. No.

11:04:34 3 Q. Apart from your consultations with  
4 counsel, have you talked with anyone else about  
5 the fact that you are being deposed or the  
6 subject matter of your deposition?

7 MR. NUNLEY: Well, objection as to  
8 form.

11:04:48 9 Q. Let me break it down in two. Have  
10 you talked with anyone about the fact that you  
11 are being deposed?

12 A. Yes.

04:50 13 Q. Who have you talked with?

14 A. My superior at work.

11:04:52 15 Q. And that is?

16 A. Earl Herald.

11:05:00 17 Q. I'm sorry, say that name again.

18 A. Earl Herald, H-E-R-A-L-D.

11:05:10 19 Q. Is he now in the operation service  
20 manager position?

21 A. No. Several months ago the position  
22 of plant coordinator began reporting to Earl  
23 versus directly to the operation services  
24 manager.

05:32 25 Q. Does Mr. Herald then <sup>REPORT in TURN</sup> ~~in turn report~~

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1           Estes - Highly Confidential - Trade Secret  
2           to the operation service manager?

3           A.     Yes.

11:05:42 4           Q.     When did you talk to Mr. Herald about  
5           the fact that you're being deposed?

6           A.     It's been the week before last.

11:05:54 7           Q.     And to the best of your recollection,  
8           what did you say and what did he say?

9           A.     I told him that I had received notice  
10          that I had been subpoenaed to testify, and that I  
11          was meeting with the company lawyers, I wouldn't  
12          be back until it was over with.

11:06:12 13          Q.     Essentially scheduling, telling him  
14          that you had reason why you wouldn't be at work?

15          A.     Yes.

11:06:18 16          Q.     Did you talk at all about the subject  
17          matter of the deposition?

18          A.     No.

11:06:20 19          Q.     Or the subject matter of the  
20          lawsuit?

21          A.     No.

11:06:26 22          Q.     Have you looked at any documents in  
23          preparing for this deposition?

24          A.     On my own?

11:06:34 25          Q.     It's all-encompassing. On your own,

1           Estes - Highly Confidential - Trade Secret  
2 with others. Have you looked at any documents?

3           A.     Yes.

11:06:40 4           Q.     Apart from your consultations with  
5 your lawyers, have you looked at documents?

6           A.     No.

11:06:44 7           Q.     Have you brought any documents that  
8 you reviewed with you to this deposition?

9           A.     No.

11:06:58 10          Q.     Have you reviewed any deposition  
11 testimony by any other witness in this case?

12          A.     Yes.

11:07:04 13          Q.     Which witnesses?

14          A.     The gentleman that owned the flavor  
15 concern that was in the video.

11:07:24 16          Q.     Mr. Van Nouhuys?

17          A.     Is that his name?

11:07:30 18          Q.     Did you review that entire deposition  
19 transcript?

20          A.     Not to my knowledge.

21               MR. NUNLEY: I think actually he  
22 watched a portion of the videotape. We thought  
23 Mr. Payton was going to be the examiner. We  
24 thought we would give him a little chance to know  
25 as much about you as you know about him.

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11:07:48 2 Q. What documents do you recall  
3 reviewing?

4 A. They were basically some documents,  
5 some of the documents which I had submitted to be  
6 ~~COPIED THERE BACK DURING THE WINTER~~  
~~/copied. They were back during the winter.~~

11:08:10 7 Q. Tell me about that. When you say  
8 "submitted to be copied in the winter," in  
9 connection with this case?

10 A. Yes.

11:08:18 11 Q. When do you recall being asked to  
12 copy documents?

13 A. ~~I would~~ <sup>I'M GONNA</sup> say it was February, March  
14 time frame. I can't remember exactly.

11:08:32 15 Q. Do you have an office at the Park 500  
16 facility?

17 A. Yes.

11:08:34 18 Q. Do you have a secretary?

19 A. Yes.

11:08:38 20 Q. Do you keep documents in your  
21 office?

22 A. Yes.

11:08:44 23 Q. And were you personally asked to do a  
24 search for documents in response to a document  
25 request in this case?

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2 A. Yes.

11:08:52 3 Q. Did you do that search personally?

4 A. Yes.

11:08:54 5 Q. You didn't have your secretary look  
6 for the documents?

7 A. I did it personally.

11:09:00 8 Q. Did any lawyers review your  
9 documents?

10 MR. NUNLEY: If you know.

11:09:06 11 Q. When I say "review," let me clarify.  
12 That was very imprecise. Did any lawyers come  
13 and search your files for documents?

14 A. Not to my knowledge.

11:09:14 15 Q. And then what did you do with the  
16 documents that you copied?

17 A. I boxed up the originals. They were  
18 picked up. They came back several weeks later.

11:09:28 19 Q. Is there a central document  
20 repository, and I mean that in the most general  
21 sense, at Park 500 in addition to what you may  
22 keep personally in your files?

23 A. I'm not sure I would characterize it  
24 that way, but there are central files.

11:09:46 25 Q. What documents would you typically

1           Estes - Highly Confidential - Trade Secret  
2           keep in your files? And I ask that to help  
3           clarify the question, as distinguished from  
4           documents that you would send to central files.

5           MR. NUNLEY: Time frame? Current?

11:10:00 6           Q.     In the last two or three years. If  
7           it changes during that time period, please tell  
8           me in your answer.

9           A.     As stock prep superintendent, there  
10          were a lot of files that had to do with projects,  
11          tests, personnel, stock prep equipment, that sort  
12          of thing, that I would have kept personally.

13                   In my current position, I do not keep  
14          many of those type of documents, simply because I  
15          don't interact in that fashion currently.

11:10:46 16          Q.     We received some documents yesterday  
17          in response to a document request, and they  
18          related to the ART project. Do you know whether  
19          those documents came from your files? Is that  
20          part of a subsequent search of your files?

21          A.     I'm not sure which documents you're  
22          talking about.

11:11:06 23          Q.     Have you been asked since the search  
24          in February or so, have you been asked to make a  
25          subsequent search of your files?

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2 A. No.

11:11:14 3 Q. Have you done a subsequent search of  
4 your files?

5 A. No.

11:11:22 6 Q. Have you signed a confidentiality  
7 agreement with Philip Morris, do you know?

8 A. There is part of my contract that I  
9 signed in 1975 that deals along those lines. I  
10 can't remember exactly how it's stated.

11:11:48 11 Q. So you signed a formal contract when  
12 you came to work for the company?

13 A. Yes.

11:11:54 14 Q. And your understanding is that there  
15 are some provisions in that contract regarding  
16 confidential treatment of information?

17 MR. NUNLEY: I object to the  
18 question. The document will speak for itself.  
19 It calls for a legal conclusion. But in lay  
20 terms, if you understand his questions, you can  
21 answer.

22 A. Could you repeat the question?

11:12:14 23 Q. Sure. You do not recall signing a  
24 separate confidentiality agreement apart from  
25 your employment contract; is that correct?

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2 A. That's correct.

11:12:26 3 Q. But within your -- to the best of  
4 your recollection, <sup>WITHIN YOUR EMPLOYMENT CONTRACT THERE</sup>  
~~there are provisions in your~~  
5 ~~ARE PROVISIONS THAT~~  
~~employment contract which~~ address  
6 confidentiality ~~CORRECT?~~

7 A. Yes.

11:12:32 8 Q. Do you know what those provisions  
9 say?

10 A. I can't recall.

11:12:38 11 Q. Do you have a copy of that employment  
12 contract?

13 A. <sup>IT'S IN</sup>  
~~That's~~ my personnel folder.

11:12:46 14 Q. The personnel folder is something you  
15 maintain, or is that something maintained by the  
16 company?

17 A. Maintained by the company.

11:12:52 18 Q. Do you have a copy of the employment  
19 contract?

20 A. I may. I'm not sure.

11:12:58 21 Q. It's not something you would consult  
22 from time to time?

23 A. No.

11:13:04 24 Q. Do you have unlimited access to  
25 documents at Park 500? Are there any

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1           Estes - Highly Confidential - Trade Secret  
2 restrictions on what you can see?

3           MR. NUNLEY: Well, Ted, I think you  
4 need to be clear. I don't think you've asked him  
5 can he walk into someone else's office and look  
6 at <sup>their</sup> personal files. Or maybe you are, I don't  
7 know.

11:13:26 8           Q. In the course of performing your work  
9 at Park 500, are there any documents that you are  
10 not allowed to look at?

11           A. I'm kind of confused based on what he  
12 said.

13:13:56 13          Q. I'll be very specific, then. Let's  
14 exclude the notion of walking into someone else's  
15 office and rifling through their files. That was  
16 not implicit in my question. But in the course  
17 of your work, you meet with people; is that  
18 correct?

19           A. Yes.

11:14:08 20          Q. Documents are reviewed; is that  
21 correct?

22           A. Yes.

11:14:12 23          Q. Has there been any time in your  
24 experience at the company where there have been  
25 any documents that others have been reviewing,

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1           Estes - Highly Confidential - Trade Secret  
2           that you understood not to be available to you  
3           because of their confidentiality?

4           A.       Yes.

11:14:32 5           Q.       What type of document?

6           A.       Dealing with personnel and/or  
7           compensation.

11:14:42 8           Q.       Carving out personnel and  
9           compensation issues, any other types of documents  
10          that you understood were not available to you  
11          because of their confidentiality?

12          A.       Not to my knowledge.

11:14:52 13          Q.       So it's fair to say that in terms of  
14          access to confidential or trade secret or other  
15          information, with the exceptions you've already  
16          noted as to not going in other people's offices,  
17          that you're not limited in your access to  
18          documents in any way at the Park 500 facility?

19               MR. NUNLEY: Objection. I think it  
20          mischaracterizes his testimony, <sup>THE REASON Ted... you ASKED</sup> ~~you asked~~ him in  
21          his dealings whether he's ever had a situation --  
22          I think you're expanding the question now into  
23          areas, <sup>THAT MAYBE</sup> ~~where~~ he's not had occasion to try to get  
24          into. I don't think the two necessarily follow  
25          from one another.

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2 MR. KILLORY: Understood. Good

3 point.

11:15:28

4 Q. I understand that you don't receive  
5 every document that everybody at Park 500  
6 receives. There's no business reason to. Have  
7 you ever understood that you did not receive a  
8 document because of its confidentiality, that  
9 others at Park 500 were receiving, not because  
10 there was some business reason that there was no  
11 reason for you to get it, but because it was  
12 confidential, it was deemed something you should  
13 not see?

14 Carving our employment personnel  
15 records, have you ever understood that to be the  
16 case?

17 A. Not that I can recall.

11:16:04

18 Q. Did you ever see any document called  
19 "Interrogatory responses" that was filed by  
20 Philip Morris in this case?

21 A. No.

11:16:12

22 Q. And you don't recall ever being  
23 consulted by counsel regarding the preparation of  
24 interrogatory response answers?

25 A. No.

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11:16:26

Q. Are you aware that you're listed as one of the people consulted in connection with Philip Morris's preparation of interrogatory responses?

A. No, I'm not.

MR. NUNLEY: Ted, I don't want to stop you. Is that accurate in terms of what the interrogatory says?

MR. KILLORY: It's the one where there's a long list, yes.

MR. MURPHY: "Knowledge" or "consulted" --

MR. KILLORY: The document speaks for itself. ~~I MAY BE WRONG - I don't recall.~~ I believe it, <sup>said</sup> ~~says~~ "consulted" ~~...THE ONE THAT I RECALL LOOKING AT.~~

11:17:14

Q. When you did your search for documents that you testified about in approximately February, to the best of your recollection, February of this year; is that correct?

A. Yes.

11:17:22

DIR Q. What were the subject matters of your search? What had you been asked to look for? What kind of documents?

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2 MR. NUNLEY: I'm going to object to  
3 that because I think it calls for work product  
4 and attorney-client information.

5 MR. KILLORY: You're instructing him  
6 not to answer?

7 MR. NUNLEY: I think I will, yes.

11:17:40 8 Q. Are you accepting your counsel's  
9 instruction not to answer that question?

10 A. Yes.

11 MR. NUNLEY: When you think we're  
12 getting near a break point we can take one. I  
13 don't need it now.

14 MR. KILLORY: We've covered most of  
15 the introductory. Why don't we actually do that  
16 right now. If we could, Chip --

17 MR. NUNLEY: I'm happy to keep them  
18 short if you would like to do that.

11:18:30 19 Q. Did you ever receive a notice from  
20 lawyers or anyone else at the company regarding  
21 the preservation of documents, of not discarding  
22 documents in connection with this lawsuit?

23 A. Yes.

11:18:40 24 Q. Do you recall when you received  
25 that?

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2 A. Not specifically, no.

11:18:50 3 Q. Do you recall what it said? Was it  
4 written or an oral instruction?

5 A. It was written.

11:18:56 6 Q. And do you recall what that  
7 instruction was?

8 A. It said not to follow the normal  
9 retention schedule for a listed type of subject  
10 matter documents.

11:19:14 11 Q. And do you recall what the listed  
12 topics subject matters were?

13 A. I can't recall off the top of my  
14 head.

15 MR. NUNLEY: Just so the record is  
16 clear, we've produced that.

17 MR. KILLORY: Why don't we keep the  
18 break short, take a break. As part of attempting  
19 to expedite the thing, let's make it just five.

20 THE VIDEO OPERATOR: We're going off  
21 the record. The time on the screen is 11:19:29.

22 (A recess was taken.)

23 THE VIDEO OPERATOR: We're back on  
24 the record. The time on the screen is 11:34:27.

11:34:34 25 Q. Mr. Estes, did you participate in any

1           Estes - Highly Confidential - Trade Secret  
2           way in the Food and Drug Administration's tour of  
3           the Philip Morris facilities in March of 1994?

4           A.       No.

11:34:46 5           Q.       Were you consulted by anybody in  
6           connection with that tour?

7           A.       No.

11:34:54 8           Q.       The Park 500 facility at which you  
9           work produces what product?

10          A.       Reconstituted tobacco.

11:35:02 11          Q.       Known as RL as well; is that correct?

12          A.       Yes.

35:06 13          Q.       Do you know whether any other Philip  
14          Morris facility produces that product?

15          A.       They do not.

11:35:16 16          Q.       And I take it from the testimony this  
17          morning, from the positions you've held, you're  
18          familiar with the entire RL production process;  
19          is that correct?

20          A.       Yes.

11:35:28 21          Q.       Are there other types of  
22          reconstituted tobacco produced by Philip Morris?

23          A.       There is another process, and I  
24          believe it is referred to as reconstituted  
25          tobacco.

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11:35:56 2 Q. Are you referring to the BL, blended  
3 leaf, process?

4 A. Yes.

11:35:58 5 Q. And where is that work done?

6 A. A plant in Richmond.

11:36:06 7 Q. Are you familiar with the BL  
8 process?

9 MR. NUNLEY: At what level, Ted?

11:36:14 10 Q. General familiarity, let's start with  
11 that.

12 A. Yes.

11:36:16 13 Q. Have you worked with the BL process?

14 A. No.

11:36:24 15 Q. We're going to take a little time  
16 today going through some of the stages of the RL  
17 process to try to better understand it. Before  
18 doing that, it would be helpful to go over a few  
19 terms that I understand are used in the process,  
20 and if you could briefly define them for me, to  
21 the best of your knowledge.

22 What do you understand lamina to be?

23 A. Small tobacco product generated in  
24 the stemming operation.

37:02 25 Q. Filler? What do you understand

1 Estes - Highly Confidential - Trade Secret  
2 "filler" to refer to?

3 A. I don't understand that term by  
4 itself.

11:37:14 5 Q. How about solubles? What do you  
6 understand to be meant by the word "solubles,"  
7 again, specifically referring to the RL process?

8 A. It's those components of the raw  
9 material that are soluble in hot water.

11:37:28 10 Q. And the RL process that we'll be  
11 getting to in some detail is in part a process by  
12 which those solubles are separated from the  
13 nonsolubles, is that correct, from the sheet?

14 MR. NUNLEY: Well, objection as to  
15 the use of the term "sheet." Unless you want to  
16 define it.

11:37:48 17 Q. Do you understand the question?

18 A. No, I don't.

11:37:58 19 Q. In your prior answer you indicated  
20 that solubles are the components of the raw  
21 material that are soluble in hot water. What  
22 happens to solubles in the RL process?

23 MR. NUNLEY: Objection as to form.  
24 Ted, you mean throughout the process? You can't  
25 mean that, I don't think.



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11:38:20 2 Q. The first step in the process.

3 Where -- when are solubles created? When/<sup>ARE</sup>~~do~~ they  
4 first enter into the process, in the RL process?

5 MR. NUNLEY: Objection as to -- I  
6 object to that because I don't think the solubles  
7 are created in the process. They come in in the  
8 raw product.

11:38:38 9 Q. Let's take this another way. The  
10 first step in the RL process, before we get to  
11 the documents, you tell me what the first step in  
12 the RL process is.

13 A. Blending.

11:38:48 14 Q. Before receiving? Don't you have to  
15 get the product in the first place?

16 A. We normally don't consider receiving  
17 a part of the process. But that's the first  
18 department in the production area, yes.

11:39:06 19 Q. What product, what material is  
20 received at receiving? What are the raw  
21 materials?

22 A. By description?

11:39:20 23 Q. Everything that you know that's in  
24 the raw materials, that's right. As specifically  
25 as you can describe it.

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2 A. The broad categories are stems and  
3 by-products.

11:39:36 4 Q. Okay. Going beyond those broad  
5 categories, are there further breakdowns of the  
6 by-products, for example? What are by-products?

7 A. They are characterized as tobacco  
8 material that's not suitable for use in <sup>a</sup>the  
9 cigarette --

11:39:58 10 Q. Have you heard the word -- I'm sorry,  
11 I interrupted you. Have you finished your  
12 answer?

13 A. -- because of their physical form.

11:40:08 14 Q. And by that, too small, is that what  
15 is meant?

16 A. Could be.

11:40:14 17 Q. Is dust a by-product?

18 A. Yes.

11:40:18 19 Q. And that's received as part of the  
20 raw materials?

21 A. Not in the RL process, no.

11:40:26 22 Q. Is dust used in the BL process?

23 A. Yes.

11:40:34 24 Q. I take it dust is generated in the RL  
25 process; is that correct?

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2 A. Yes.

11:40:40 3 Q. And what happens to that dust?

4 A. It's sent to the BL plant.

11:40:46 5 Q. Is any of it recirculated back into  
6 the raw materials end of the RL plant, in other  
7 words recirculated into the RL production?

8 A. Yes.

11:41:04 9 Q. What portion of the dust -- is it  
10 from one stage that goes off to BL? Is there  
11 dust generated at other stages that gets  
12 recirculated back? Can you help me out on that?

13 MR. NUNLEY: Objection as to form.

11:41:14 14 Q. Do you understand the question? In  
15 other words, some dust goes to BL, some of the  
16 dust generated in the RL process, correct?

17 A. Yes.

11:41:22 18 Q. That's what you testified. Some dust  
19 generated in the RL process is recirculated in  
20 the RL process. Is that dust generated from  
21 different stages of the RL process?

22 A. Yes.

11:41:32 23 Q. Could you describe for me what stage  
24 of the process the dust that goes to BL is  
25 generated in?

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2 A. The -- it's basically the ambient  
3 dust from the blending process.

11:41:54 4 Q. And by "ambient dust," you mean  
5 what?

6 A. That which escapes the blending  
7 process into the air.

11:42:04 8 Q. So at that first stage, when the raw  
9 materials are being blended, some dust is  
10 generated, and that dust is somehow taken out  
11 mechanically and then shipped to the BL plant; is  
12 that correct?

13 A. Yes.

11:42:22 14 Q. And the dust that is recirculated in  
15 the RL process comes from what stage of the RL  
16 process?

17 MR. NUNLEY: Objection as to form.  
18 When you say "recirculated," what exactly do you  
19 mean?

20 MR. KILLORY: It was I believe in  
21 response to my earlier question.

11:42:34 22 Q. When I used the same word you  
23 indicated that yes, some of the dust generated in  
24 the RL doesn't go to BL but it gets reused in the  
25 RL process.

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2 A. I think "reintroduced" would be more  
3 descriptive.

11:42:50 4 Q. Okay. Very good. Where is that dust  
5 generated? At what stage of the RL process?

6 A. In the transfer from blending to  
7 stock prep on lines 1 and 2.

11:43:06 8 Q. But not line 3?

9 A. That's correct.

11:43:10 10 Q. And why is that? Why not line 3?

11 A. There's a different method of  
12 transfer.

11:43:16 13 Q. Could you describe it for me?

14 MR. NUNLEY: The line 3 method --

11:43:18 15 Q. The difference between the method of  
16 transfer that exists on line 1 and 2 as I  
17 understand it, as contrasted to the method of  
18 transfer on line 3.

19 A. Line 1 and 2 is -- the material is  
20 transferred from blending to stock prep  
21 pneumatically. And there is a separation process  
22 that is part of that pneumatic transfer, which  
23 generates some dust that is reintroduced into the  
24 pulpers.

25 Line 3 is -- the materials are

1           Estes - Highly Confidential - Trade Secret  
2 conveyed via belt conveyor from the blending  
3 process to the pulper.

11:44:16 4           Q.       Taking on the very brief overview  
5 tour of this process, you've gotten me to the  
6 blending of the raw materials. What's the next  
7 step in the process? In the blending process,  
8 what happens?

9           MR. NUNLEY: Ted, which line are you  
10 on now?

11           MR. KILLORY: Lines 1 and 2.

11:44:34 12          Q.       Actually, if they are different  
13 between lines 1 and 2 and line 3, differences  
14 such as the one you described in the dust  
15 generation, I would like you to tell me that in  
16 the answer. I've been assuming <sup>FOR</sup>~~in~~ most of these  
17 processes in the general overview that they will  
18 be the same or similar.

19           If there are differences between  
20 lines 1 and 2 and line 3, I would like you to  
21 point that out in your answer. My questions are  
22 directed to all three lines.

23           MR. NUNLEY: I think this is the  
24 second time that in the preamble to your question  
25 you've suggested you're assuming something, and I

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2       don't think at either time it's been evident in  
3       your questions.

4                   MR. KILLORY:   What's the --

5                   MR. NUNLEY:   You say here "If there  
6       is a difference between line 1, 2 and 3,  
7       differences such as the one you described in  
8       the" -- "I would like you to tell me in that  
9       answer, I've been assuming in most of these  
10      processes in the general overview they will be be  
11      the same or similar."

12                   We know there are differences in the  
13      lines.   I don't think it's fair to assume and I  
14      think it's particularly unfair to ask the witness  
15      to look into your mind and know what it is you're  
16      assuming.

11:45:36 17           Q.       In the blending process that you  
18      described, are there differences other than what  
19      you have already described regarding dust  
20      collection, dust generation?   Are there other  
21      differences between line 1 and 2?   I mean, excuse  
22      me, between lines 1 and 2 on the one hand and  
23      line 3 on the other?

24                   A.       Yes.

45:56 25           Q.       And what are those differences?

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2 A. The line 3 blending is a wet  
3 process. And lines 1 and 2 are a dry process.

11:46:32 4 Q. Are materials transferred between  
5 lines?

6 A. Raw materials? Yes.

11:46:44 7 Q. Describe that for me. What raw  
8 materials are transferred between lines?

9 A. There are two receiving areas, one  
10 that supplies line 3 blending, one that supplies  
11 lines 1 and 2 blending. Periodically there will  
12 be components needed on one line that are  
13 available in the other line receiving, and we  
14 will transfer those components.

11:47:22 15 Q. Which components?

16 A. Whatever one the line that is deficit  
17 may require.

11:47:30 18 Q. Stems versus by-products?

19 A. Could be any of the components.

11:47:36 20 Q. So within the category, for example,  
21 of by-products, there are subcategories of things  
22 that make up by-products. Those items are  
23 segregated in the receiving area; is that  
24 correct? You're just dealing with receiving area  
25 for line 1 or 2 right now.



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2 MR. NUNLEY: You mean subcategories  
3 of --

11:47:58 4 Q. When I tried to explore it you said  
5 certain types of material would be needed on line  
6 3, for example, and you would get them on the  
7 receiving area for lines 1 and 2. My  
8 understanding was that the general breakdown of  
9 raw materials in the receiving area included  
10 stems on the one hand and by-products on the  
11 other, by-products including a number of  
12 different types of by-products.

13 Are there also a number of different  
14 types of stems?

15 A. Yes.

11:48:20 16 Q. <sup>that</sup> So within any of those subcategories,  
17 is the material, when it's sitting in receiving  
18 for line 1 and 2, are the different types of  
19 by-products separately stored?

20 A. Yes.

11:48:36 21 Q. And the same on line 3?

22 A. Yes.

11:48:40 23 Q. Beyond raw materials, are other  
24 materials in the RL process transferred or shared  
25 between lines 1 and 2 -- between any of the three

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1           Estes - Highly Confidential - Trade Secret  
2 lines?

3                   MR. NUNLEY: Objection as to form.  
4 You can answer.

5           A.       I think the question is too broad. I  
6 don't understand.

11:49:08 7           Q.       Are you ever, throughout the  
8 process -- you described for raw materials that  
9 there will be a point at which maybe line 3 was  
10 low on a certain type of raw material, so you  
11 shared -- borrowed some from line 1 or 2  
12 receiving area; is that correct?

13           A.       Yes.

11:49:22 14           Q.       And what I'm asking is that, going  
15 through the RL process, are there other times  
16 when materials -- I'm not using it in the sense  
17 of raw materials -- materials used in the  
18 process, whether it be -- any materials used in  
19 the process, you would have a similar situation,  
20 that one of the lines is short and so you share  
21 some of that material or product, whatever word  
22 you want to call it, but you share some  
23 ingredient between the lines?

24                   MR. NUNLEY: Objection as to form.

49:54 25           Q.       Or you transfer materials or

1           Estes - Highly Confidential - Trade Secret  
2 ingredients between lines.

3           MR. NUNLEY: Same objection.

11:49:58 4           Q.     You can answer.

5           MR. NUNLEY: Materials or ingredients  
6 between lines, that's the question.

11:50:04 7           Q.     Do you share or transfer any  
8 materials between any of the three lines in the  
9 RL production process?

10          A.     Yes.

11:50:12 11          Q.     What materials are those?

12          A.     On occasion, we will share fiber  
13 between lines. 1 and 2. Not between 1 and 2 or  
14 3. And we will transfer denitrated concentrated  
15 extract liquor.

11:50:56 16          Q.     Anything else?

17          A.     Most nonprocess materials are not  
18 line specific until they're actually moved to  
19 that particular line, as far as containers and  
20 additives, that sort of thing.

21           MR. NUNLEY: Bill, you might explain  
22 what a nonprocessed material is, although we've  
23 talked about that.

24           THE WITNESS: The nontobacco  
25 materials that are part of the process of making

1 Estes - Highly Confidential - Trade Secret  
2 RL.

11:51:46 3 Q. When you said in your second previous  
4 answer, "fibers," you were referring to what?  
5 "Transfer fiber between lines."

6 A. The material that remains once the  
7 solubles are removed.

11:52:10 8 Q. What would be the circumstance under  
9 which -- what has been the circumstance under  
10 which you would find it necessary to transfer  
11 fiber or sheet between lines?

12 MR. NUNLEY: Objection as to form.  
13 You're using a term I don't think the witness has  
14 adopted. It's a compound question. And there's  
15 no time frame to it.

11:52:30 16 Q. When I refer to sheet, do you  
17 understand what I'm talking about?

18 MR. NUNLEY: Improper. I think you  
19 need to ask what he understands "sheet" to mean.  
20 I don't think you can ask him what you understand  
21 it to mean.

11:52:42 22 Q. What's your understanding of the word  
23 "sheet" in connection with the RL production  
24 process?

25 A. That's what we call the finished

1           Estes - Highly Confidential - Trade Secret  
2 product.

11:52:50 3           Q.     Oh, really? You don't call it  
4 "finished sheet," "sized sheet," you just call  
5 it "sheet"?

6           A.     That's one reference. "Finished  
7 sheet" is another.

11:53:04 8           Q.     Have you ever heard "sheet" used in  
9 reference to the product before it is the  
10 finished sheet?

11           MR. NUNLEY: Ted, it wouldn't be the  
12 product before it's the finished sheet.

13           MR. KILLORY: It's a product at all  
14 stages. I'm not talking about the finished  
15 product.

11:53:18 16          Q.     It's a product that goes through the  
17 RL system. You indicated in your prior answer  
18 you <sup>UNDERSTOOD</sup>~~meant~~ "sheet" to mean the finished sheet;  
19 finished product.

20                   Before it's a finished product,  
21 before the solubles are added to what I refer to  
22 as the sheet, which you referred to in one of  
23 your answers as the fiber, have you ever heard  
24 the material with the solubles extracted referred  
25 to as sheet or tobacco sheet?

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2 MR. NUNLEY: Objection. Compound.

11:53:48 3 Q. You can answer.

4 A. That's not the way we refer to it, *No*

11:53:54 5 Q. My question is have you ever heard it  
6 referred to as that.

7 MR. NUNLEY: Other than when you've  
8 used it?

11:53:58 9 Q. Have you ever before this deposition  
10 heard it referred to as sheet or tobacco sheet?

11 A. Not to my knowledge.

11:54:10 12 Q. Have you ever read a document, a  
13 Philip Morris document that referred to it as  
14 sheet or tobacco sheet?

15 MR. NUNLEY: "It" being what, Ted?

16 MR. KILLORY: The subject matter of  
17 the prior question.

18 MR. NUNLEY: You used "it" in the  
19 prior question also.

11:54:22 20 Q. The material from which the solubles  
21 had been extracted before the solubles had been  
22 added to it. In other words, the raw materials  
23 minus the solubles as it's going through the  
24 line. Have you ever seen that referred to as  
25 sheet or tobacco sheet in a Philip Morris

1 Estes - Highly Confidential - Trade Secret  
2 document?

3 MR. NUNLEY: Objection. Compound.

11:54:40 4 Q. You can answer.

5 MR. NUNLEY: You can answer.

6 A. Not to my recollection.

11:54:56 7 Q. In what form are the fibers, as you  
8 referred to them at this stage of before the  
9 solubles are added back?

10 MR. NUNLEY: Objection. What do you  
11 mean, what form?

11:55:06 12 Q. What form are they in, in the  
13 layman's sense of form?

14 A. At what point in the process?

11:55:14 15 Q. Take me through the process. When do  
16 they first become fibers?

17 A. Well, they're actually fibers in the  
18 raw material.

11:55:26 19 Q. Okay. Then take me through the  
20 process. The next stage of the process -- so  
21 they're fibers in the raw material when the  
22 solubles are still part of those raw materials?

23 A. I don't follow you.

11:55:44 24 Q. I asked when are they fibers and in  
25 what form. And you said in the materials they

1           Estes - Highly Confidential - Trade Secret  
2           are actually fibers. But I just want to be  
3           clear, at that stage when they're raw materials,  
4           the solubles have not been extracted yet; is that  
5           correct?

6                   MR. NUNLEY: I object to your  
7           question. I think it's unintelligible. I mean,  
8           the witness has told you that the raw materials  
9           contain fiber and solubles.

10                   MR. KILLORY: My question was, first,  
11           in what form are they fibers. The witness  
12           said -- in what form are the fibers. The witness  
13           said, at what stage. He said -- so I said, let's  
14           take me back to when they're fibers. He said,  
15           actually they're fibers in the raw material  
16           stage.

11:56:24 17           Q. I'm just trying to educate myself,  
18           clarify as to, is that -- so when you refer to  
19           fibers, you're referring to the raw material as  
20           well?

21                   A. Yes.

11:56:36 22           Q. When the solubles are taken out of  
23           the raw material, you refer to them as fibers at  
24           that stage as well?

25                   MR. NUNLEY: The solubles?



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2 MR. KILLORY: No.

11:56:48 3 Q. When the solubles are taken out of  
4 the raw material, what I just described as  
5 fibers, you're left with raw material minus  
6 solubles, but you also referred to that as fiber  
7 as well?

8 A. We refer to it as stock, ~~those~~  
9 ~~solubles~~, at that juncture.

11:57:08 10 Q. And in what form is that stock?

11 MR. NUNLEY: Objection as to form.

11:57:10 12 Q. You can answer.

13 MR. NUNLEY: If you understand his  
14 question, you can answer.

11:57:14 15 Q. What physical form? What part of  
16 that question -- do you have any trouble  
17 understanding the question?

18 A. I'm not focused on what stage of the  
19 process you're questioning me about.

11:57:28 20 Q. When the solubles -- when they are  
21 transferred between lines, what form are the  
22 fibers in?

23 A. They are transferred between stock  
24 chests, and it is stock that has been through  
25 extraction but has not been refined.

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1           Estes - Highly Confidential - Trade Secret

2           MR. NUNLEY: I'm not trying to be  
3 difficult on the language. I think you know that  
4 terminology is important in the case. And I  
5 think we've given you a lot of documents that  
6 would allow you to understand the terminology. I  
7 just think the questions are not -- don't seem to  
8 show the benefit of those documents.

9                               (Estes Exhibit 1 for  
10 identification, RL process overview.)

11:59:26 11           Q.     Mr. Estes, I'm handing you a document  
12 that has been marked as Exhibit 1 to the Estes  
13 deposition. I believe it was also Exhibit 32 to  
14 the Burnley deposition, just so the record is  
15 clear. It's called the RL process overview in  
16 response to the discovery in this case, asking  
17 for descriptions of the RL process. It was one  
18 of the primary documents produced by Philip  
19 Morris to us.

20                           Have you seen this document before?  
21 I will represent for the record, as we covered in  
22 the Burnley deposition, that this document came  
23 to us in a form where the pages appeared to be  
24 out of order, and we have attempted to put them  
25 in the correct order based on the numbers.

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2 MR. NUNLEY: I didn't respond to that  
3 in the Burnley, but I feel compelled to respond  
4 to it here. I don't know if there's any  
5 implication intended or meant. I can tell you no  
6 one at our firm or Wachtell Lipton made any  
7 effort to try to shuffle the document. And  
8 clearly it wouldn't have made a whole lot of  
9 sense to do it with a document that has internal  
10 page numbers on it.

11 MR. KILLORY: There was no  
12 implication intended whatsoever. Frankly I never  
13 saw the document in its original form as we  
14 received it. I'm just representing we've made  
15 our best effort to put it in order. And there is  
16 no implication at all.

17 MR. NUNLEY: I looked at it in the  
18 Burnley deposition. I think you put it in  
19 order.

20 A. I don't believe I've seen this  
21 document.

12:01:20 22 Q. So you've never seen that document  
23 before?

24 A. Some of the pages look familiar. But  
25 I've never seen a volume of this size with this

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1           Estes - Highly Confidential - Trade Secret  
2 information put together, no.

12:01:38 3           Q.     Are there any training manuals for  
4 the RL process? In other words, for new  
5 employees to become acquainted with the process.

6           A.     Yes.

12:01:46 7           Q.     Is this not one of those manuals?

8           A.     It may be. I don't have direct  
9 knowledge of that, no.

12:01:54 10          Q.     So your best recollection is that you  
11 may have seen portions of this document but you  
12 don't recall seeing something, a compendium as  
13 large as this; is that correct?

14          A.     That's correct.

12:02:08 15          Q.     Do you know who would have been  
16 responsible, from your glance through the  
17 document, who would have been responsible for  
18 preparing a document of this nature?

19               MR. NUNLEY: Objection. You mean  
20 this specific document?

21               MR. KILLORY: This document, I'm  
22 sorry. Good point.

23          A.     No, not specifically.

12:02:32 24          Q.     Can you identify -- it's a very thick  
25 document, but from your look through it -- it is

1           Estes - Highly Confidential - Trade Secret  
2           a step by step description of the RL process, as  
3           the title indicates. From your look at it, or  
4           could you in a short time look at this document  
5           and identify those portions you believe you've  
6           seen before?

7                   MR. NUNLEY: Objection to the  
8           characterization of the document. It speaks for  
9           itself. You can answer the question. If you  
10          want to, Ted, literally pick out the pages, we  
11          ought to let him --

12                   MR. KILLORY: My question is -- the  
13          reason why I worded it the way I did is, if by  
14          his earlier answer he meant there are certain  
15          topics that he knows from his experience that  
16          he's seen, certain stages of the process, and you  
17          could identify the sections of the process  
18          overview that you've seen, then I would like you  
19          to tell me, that's all.

12:03:24 20           Q.     Are there any sections of this  
21          document that you can recall sitting here today  
22          having seen?

23                   A.     Not in this form.

12:03:52 24           Q.     When you say "not in this form," what  
25          do you mean?

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2 A. That I can't recall seeing documents  
3 that are in this form.

4 MR. NUNLEY: Do you see any pages in  
5 there you recognize having seen before? I think  
6 that's what Mr. Killory is asking you.

12:04:12 7 Q. Turn to page 39, for example.

8 (Witness complies.)

12:04:20 9 Q. Bates stamp number, which I neglected  
10 to give for the entire document, Estes Exhibit 1,  
11 receiving stamp is PA 211404 through PA 211712.  
12 The Philip Morris production number is 2030363637  
13 through 2030363945, although, as I said before,  
14 with some of the shuffling or nonorganization of  
15 the document, I won't represent that those  
16 numbers are all consecutive. That's what they  
17 begin and end on.

18 If you could look at that page which  
19 describes stock prep.

20 MR. NUNLEY: I might just say, my  
21 colleagues point out to me there are two page  
22 39s. Looks like it would be 46 --

12:05:38 23 Q. I'm drawing your attention to PA  
24 211461, which is the cover page, stock prep 1, 2,  
25 3, which I take it refers to lines 1, 2 and 3,

1           Estes - Highly Confidential - Trade Secret  
2           the successive page, which is number 39, PA  
3           211462?

4                   MR. NUNLEY:   And the second 39 is  
5           465.

12:06:00 6           Q.       I include that in my question as  
7           well.   The second page 39 which came with this  
8           document, which is also a description of stock  
9           prep.   Have you seen any of those pages before?

10                   MR. NUNLEY:   Either of these pages?

11                   MR. KILLORY:   Any of those pages.

12           A.       Could you give me the pages one more  
13           time, the PA number?

12:06:20 14           Q.       Sure.   You're looking at it.   PA  
15           211461.   If you turn to the next page, which is  
16           labeled 39 at the bottom, 211462.   Then if you  
17           continue under the heading of "Pulper system,"  
18           continue several pages later, there's another  
19           page 39 that came with this original document,  
20           that is labeled PA 211465.

21           A.       Okay.

12:06:46 22           Q.       And my question is simply whether you  
23           had seen any of these three pages before.

24           A.       No.

12:07:46 25           Q.       Mr. Estes, I would like to go through

1           Estes - Highly Confidential - Trade Secret  
2           the RL process with you and keep it as brief as  
3           possible. And I think it would be useful for me  
4           to go through using this document, acknowledging  
5           that as far as you can tell, you don't recall  
6           seeing the document in this form before, but as a  
7           framework for asking my questions.

8                     Understood in that is if there is a  
9           page in the course of turning the pages that you  
10          recognize, it's irrelevant to my questions one  
11          way or another. I'm going to be asking you  
12          questions about the process, but I think it will  
13          move things along if I can frame it in terms of  
14          the stages as outlined in this document.

15                    The alternative is we sit here and  
16          have you review the entire document to decide  
17          whether it looks like it encompasses the process,  
18          and we certainly won't conclude today or probably  
19          tomorrow at that rate. So to try to expedite  
20          things, that's how I'm going to try to proceed.

21                    If you could turn to page 2, which is  
22          Bates number PA 211412.

23                    (Witness complies.)

24                    A.       The PA number is cut off on the  
25          bottom of this page.



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12:09:10 2 Q. Okay. It's got a 2030363645 number  
3 as well. Do you have that page in front of you?

4 A. Yes.

12:09:30 5 Q. This describes the blending feed  
6 system. Does the blending involve only dry raw  
7 materials?

8 A. In what portion of the blending  
9 process?

12:09:44 10 Q. Well, at any portion of the process.  
11 The blending process. I had understood blending  
12 to be the first stage of the process where you  
13 get raw materials in and then they undergo a  
14 blending process. Are there more than one stages  
15 within that blending process?

16 A. Yes.

12:09:58 17 Q. What are those stages?

18 A. On which line?

12:10:08 19 Q. Are they different between the three  
20 lines?

21 A. Yes.

12:10:12 22 Q. Are all three lines different?

23 A. No. A singular blending provides raw  
24 materials for lines 1 and 2 stock prep.

12:10:22 25 Q. Would you describe the blending

1           Estes - Highly Confidential - Trade Secret  
2           process for lines 1 and 2 first.

3           A.       The different components are stacked  
4           on roller conveyors. They're conveyed into  
5           dumpers. They're dumped into feeders. They're  
6           metered from the feeders across a weigh belt at  
7           certain percentages based on the blend formula.  
8           And they're hammermilled, or reduced to the  
9           appropriate size, and pneumatically conveyed to  
10          the pulpers/<sup>IN</sup>~~and~~ stock prep.

12:11:10 11           Q.       How does this metering work? Can you  
12          describe that for me?

13          A.       On which line?

12:11:16 14          Q.       The same line you're just describing,  
15          which I took to be 1 and 2.

16          A.       That's correct. It's a batch basis,  
17          and there's a weighing device called a weigh belt  
18          that the product runs across, so you're weighing  
19          up blend formula amounts of those components to  
20          go into each pulper batch.

12:11:48 21          Q.       What are the sources from which Park  
22          500 receives the raw materials that are blended  
23          in this manner? Any and all of the raw  
24          materials.

25          A.       They all come to Park 500 via the

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2 Philip Morris leaf department.

12:12:06 3           Q.     Do you know where the Philip Morris  
4 leaf department acquires them from?

5           A.     Numerous locations.

12:12:16 6           Q.     Such as?

7           A.     You mean countries of origin?

12:12:24 8           Q.     I take it then they're taken from  
9 international as well as domestic sources?

10          A.     Yes.

12:12:30 11          Q.     What are the domestic sources?

12          A.     The product is labeled in such a  
13 fashion that we can tell where it was -- where it  
14 originated in the form that it's in when we get  
15 it. And most of those locations to my knowledge  
16 are in the bright and burley belts on the East  
17 Coast of the United States.

12:13:04 18          Q.     Help me out a minute. The form in  
19 which it is in when you get it, by that you mean  
20 the stems, for example, as you receive the stems  
21 they are labeled in a fashion that tells you --

22          A.     Where they were created.

12:13:18 23          Q.     Would that be a Philip Morris  
24 manufacturing facility stemmery?

25          A.     Not currently, no.

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12:13:26 2 Q. It has been in the past?

3 A. Philip Morris did do some of their  
4 own stemming up until several years ago.

12:13:34 5 Q. And who does that stemming now?

6 A. I'm not sure who does all of it. I  
7 know Universal Leaf does a considerable amount.

12:13:44 8 Q. But in the receiving department, if  
9 one were to look in the receiving department, one  
10 could identify where each batch of materials came  
11 from? Is that what I understand?

12 MR. NUNLEY: I object to that. I  
13 don't think he said "batch" -- talking about a  
14 combination of various different subgroups. I  
15 don't think you could tell as the box comes in.

16 MR. KILLORY: Fair point. Let's step  
17 back.

12:14:10 18 Q. "Batch" would refer to after you  
19 blend the various subgroups together and not as  
20 they're coming into the receiving door; is that  
21 correct?

22 A. That's correct.

12:14:20 23 Q. Okay. Fair point. They are all --  
24 the raw materials before they're blended into a  
25 batch, they're just received at the door, they

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2           all are identified as to source, as to where they  
3           come from? As to which stemmery, in the instance  
4           of stems.

5           A.       In most cases, yes.

12:14:42 6           Q.       How about the tobacco by-products?  
7           Are they similarly identified?

8           A.       Yes.

12:14:50 9           Q.       And where do those come from?

10          A.       They can either be domestically  
11          generated from Philip Morris U.S.A. facilities or  
12          some of them can be purchased on the open  
13          market.

12:15:14 14          Q.       How about international facilities?  
15          Are they also a source for tobacco by-product?

16          A.       Yes.

12:15:22 17          Q.       Do you know from your experience  
18          roughly what percentage of the tobacco  
19          by-products come from international Philip Morris  
20          facilities versus domestic facilities?

21          A.       Currently?

12:15:32 22          Q.       Yes.

23          A.       Currently, because of recent  
24          legislation, any product that's being produced  
25          domestically can have no more than 10 percent of

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2 offshore raw materials in it. There is no such  
3 restriction on product that's going to be  
4 exported.

12:16:12 5           Q.     The RL, the finished product that  
6 comes out of the RL process, some of it is for  
7 export internationally and some of it is for  
8 domestic production?

9           A.     Yes.

12:16:26 10          Q.     And how do you keep that segregated  
11 throughout the process?

12                   MR. NUNLEY: You mean how domestic is  
13 kept separate from export?

12:16:38 14          Q.     To be clear -- good point, Chip --  
15 the domestic -- the finished product for  
16 domestic -- you indicated -- let me backtrack.  
17 You indicated there is no -- there's a 10 percent  
18 limitation on the international component of the  
19 raw materials that ultimately end up in RL  
20 product for domestic consumption, for domestic  
21 use; is that correct?

22           A.     Yes.

12:17:02 23          Q.     There is no such limitation on  
24 international -- the international component, raw  
25 material component of product destined for

1           Estes - Highly Confidential - Trade Secret  
2 international use; correct?

3           A.     That's correct.

12:17:18 4           Q.     Do you keep them, do you keep the raw  
5 materials segregated with an eye towards domestic  
6 production versus international production?

7           A.     It doesn't work exactly that way.

12:17:36 8           Q.     How does it work?

9           A.     The -- because there are some  
10 offshore components in domestic product, the  
11 receiving is basically ordering components and  
12 keeping certain levels of components. So there  
13 may be like components in domestic and export  
14 production.

15                         So hence I would not say that we  
16 segregate the components for domestic versus  
17 export production.

12:18:16 18          Q.     Who are some of the offshore -- who  
19 are the offshore suppliers of raw materials?

20          A.     Zimbabwe, Brazil, Guatemala, Italy,  
21 Philippines.

12:18:42 22          Q.     How about by company? Are these all  
23 Philip Morris facilities <sup>THAT ARE</sup> supplying this raw  
24 material or are there other companies as well?

25          A.     I'm not sure.

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12:18:52 2 Q. The identification of the materials  
3 coming in doesn't indicate the identity of the  
4 supplier?

5 A. By company name?

12:18:58 6 Q. That's right.

7 A. Not usually.

12:19:04 8 Q. By Philip Morris versus non-Philip  
9 Morris supplier?

10 A. There are numerous affiliates and  
11 licensees internationally that do not have  
12 "Philip Morris" in the corporate title.

:19:18 13 Q. Understood. And can you distinguish  
14 from the labeling of the raw materials that come  
15 into Park 500 which ones come from Philip Morris  
16 facilities, which ones come from licensees or  
17 affiliates, or which ones come from unaffiliated  
18 companies?

19 MR. NUNLEY: Objection. Compound.  
20 You can answer, if you understand.

21 A. They all come through Philip Morris  
22 leaf department before we get them. Now, from  
23 whence they came, whether it be out of a market  
24 or transfer deal or whatever internationally, I  
25 don't know, until they are actually under the

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1           Estes - Highly Confidential - Trade Secret  
2           control of Philip Morris leaf department.

12:20:10 3           Q.     I had understood from your prior  
4           testimony, and correct me if I'm wrong, I had  
5           understood that the raw materials that you  
6           received were labeled with something more than  
7           just the fact that they came from the leaf  
8           department, that they were labeled from the  
9           source, the origin, in some manner to indicate  
10          their origin before they came to the leaf  
11          department, that -- I don't remember your exact  
12          words, but do you recall your testimony that it  
13          was when they became in the form they're in at  
14          some facility before they got to the leaf  
15          department --

16                   MR. NUNLEY: Ted, let me just ask you  
17           maybe to do this, to get at it. What you might  
18           want to do is ask him how they're labeled.

19                   MR. KILLORY: I did ask that before.

20                   MR. NUNLEY: And just ask him what  
21           information is contained in the labeling.

12:21:00 22          Q.     Go ahead and tell me. How are they  
23          labeled on the raw materials that come in?

24                   A.     Normally, all domestic and/or export  
25          labels will contain crop year, point of origin.

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12:21:20 2 Q. Is that strictly a geographic point  
3 of origin? In other words, it's not a company  
4 name as well or some other indication beyond the  
5 geographic locale?

6 A. For -- that is true for offshore  
7 material. Most domestic product will have a  
8 stemmery location, and it may be in code.

12:21:48 9 Q. Any of the international -- the  
10 offshore materials come from France?

11 A. Not to my knowledge. Did I complete  
12 the answer to that question?

12:22:10 13 Q. I'm not sure. Is there more?

14 A. Can you read me back what I said in  
15 terms of what all was on the label?

12:22:26 16 Q. "Most domestic product will have a  
17 stemmery location and it may be in code."

18 A. ~~BACK~~ When I was talking generically about  
19 product labels.

12:22:40 20 Q. You talked about crop year and point  
21 of origin. Why don't you complete your answer  
22 instead of me interrupting. Go ahead.

23 A. In addition to crop year and point of  
24 origin, it normally has a packing point; if it  
25 were repacked; and the date that it was

1           Estes - Highly Confidential - Trade Secret  
2           repacked. And some sort of lot identification  
3           and/or container number.

12:23:10 4           Q.       And that packing point, meaning where  
5           in the Philip Morris process it was packed, or  
6           where at the point of origin it was packed?

7           A.       Normally where it was packed when it  
8           was converted into the form that it was when it  
9           went into that container.

12:23:36 10          Q.       Now, let me go back to my question  
11          about a 10 percent limitation for domestic RL  
12          output versus no limitation for RL output  
13          destined for international use.

14                   MR. NUNLEY: You might say "export."  
15          That's how they -- that's their terminology.

16                   MR. KILLORY: Okay. Very good.

12:24:00 17          Q.       The export RL versus the domestic  
18          RL. You get a batch of materials in one end.  
19          How do you ensure that the domestic RL has 10  
20          percent or less of the international components,  
21          raw material components?

22                   A.       It's through how we introduce it into  
23          blending.

12:24:24 24          Q.       Describe that for me.

25                   A.       Which is -- we have the person from

1           Estes - Highly Confidential - Trade Secret  
2           blending that's going to receive<sup>ing</sup> the pickup, the  
3           components for that day's run has a sheet that  
4           tells them specifically which components go into  
5           this blend.

12:24:48 6           Q.       So for that day's run, do you know  
7           that the ultimate output, the finished product,  
8           is going to be all for domestic use?

9           A.       It's normally longer than a day.

12:25:02 10          Q.       What is the normal period of time?

11                   MR. NUNLEY: The normal period of  
12           time for an individual run on an individual, *LINE*

13                   MR. KILLORY: A run destined for  
14           domestic versus international.

12:25:18 15          Q.       Again, I'm trying to find out how it  
16           is you produce two very different products. One  
17           is 10 percent international raw material  
18           component. The other is no limitation, which I  
19           take it -- I shouldn't take it.

20                   Is the export RL, does that contain  
21           typically more than 10 percent of the raw  
22           material from the international raw material?

23           A.       Yes.

12:25:44 24          Q.       When you do a given run --

25                   MR. NUNLEY: Ted, excuse me. Pardon

1           Estes - Highly Confidential - Trade Secret  
2           me for interrupting you. Your question a  
3           question ago said, "I'm trying to find out how it  
4           is you produce two very different products." I  
5           think you mean a domestic product and an export  
6           product.

7                   MR. KILLORY: That's fine. I accept  
8           that. I didn't mean to suggest *ANYTHING beyond domestic*

12:26:06 9           Q.       The domestic product has a different  
10           international content. I think we clarified it  
11           with the next question. The domestic content has  
12           a different international raw material component  
13           than does the international product; correct?

14           A.       Yes.

12:26:20 15          Q.       The run -- you described to me that  
16           you would do a run, and the blend would be set  
17           based on the fact that you would know the run was  
18           for domestic finished product, and you indicated  
19           that one day was typically not the period of time  
20           for which a given run would be established to  
21           produce the domestic product or the international  
22           product, whichever it is, based on the blend.

23                   What would be the period of time  
24           typically that you would set for a run for a  
25           batch of domestic product?

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2 A. Say, on average, anywhere between two  
3 weeks and four months.

12:27:12 4 Q. So for that period between two weeks  
5 and four months, all of the output of --

6 MR. NUNLEY: You're line specific.

7 MR. KILLORY: That's what I'm going  
8 to, whether all the lines, are we line specific  
9 here.

12:27:26 10 Q. Let me backtrack. Can one line be  
11 producing international product while the other  
12 line -- export product, thank you -- export  
13 product while the other line is producing  
14 domestic product?

15 A. Yes.

12:27:42 16 Q. So on a line specific basis, if all  
17 of the product generated during this two-week to  
18 four-month, somewhere in between, possibly, but  
19 during that run, all of that batch will go to --  
20 will be dedicated to domestic market or the  
21 international market?

22 MR. NUNLEY: I hate to interrupt your  
23 question. You said "all that batch." I don't  
24 think they referred to -- I mean --

12:28:02 25 Q. All of that run, all of the product

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1           Estes - Highly Confidential - Trade Secret  
2           of that run will be solely dedicated to either  
3           export or domestic.

4           MR. NUNLEY: On that line.

12:28:12 5           Q. On that line.

6           A. Yes.

12:28:16 7           Q. Is there testing of the raw materials  
8           for the soluble content when it comes in the  
9           door?

10          A. Yes.

12:28:24 11          Q. Describe that testing for me, will  
12          you, please?

13          A. It's done once a week. They take  
14          samples of all the blend components, grind them  
15          and mix them according to the percentages in the  
16          blend formula, do a hot water solubles on it, and  
17          record that data.

12:29:00 18          Q. How big is the test batch for that  
19          testing, test sample?

20          A. They can get all the components in a  
21          garbage bag.

12:29:20 22          Q. Does the soluble level vary?

23          A. Yes.

12:29:22 24          Q. How much?

25          MR. NUNLEY: Time frame? You mean

1 Estes - Highly Confidential - Trade Secret  
2 current?

12:29:28 3 Q. Within your last several years'  
4 experience. ~~Does it vary over time?~~ *SOMETHING OVER TIME. DOES IT VARY?*

5 MR. NUNLEY: You mean within a  
6 specific blend?

12:29:38 7 Q. You said the testing is weekly.  
8 Within a given blend, do you get different  
9 soluble readings with that testing?

10 MR. NUNLEY: Ted, I think you need to  
11 quantify "different." You mean by 100th percent,  
12 1 percent?

12:29:52 13 Q. Does it vary, that's my first  
14 question.

15 A. What time frame are you speaking of?

12:29:58 16 Q. Week to week, month to month. You  
17 tell me. I take it there are some variances, is  
18 that correct, in the soluble levels?

19 A. The reason I asked for time frame is  
20 in my current position I have not been exposed to  
21 it probably in the last year and a half.

12:30:16 22 Q. Okay. Fair point. Take me to when  
23 you had exposure to it, which was a year and a  
24 half ago, and then preceding back how long?

25 A. Back into the late '80s.



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12:30:28

Q. Okay. From that extensive experience, and limited to that time period, were there variances in the soluble level detected by that testing that you just described?

A. Yes.

MR. NUNLEY: I think the question is so open-ended. Do you mean from one date in '88 with a totally different set of materials to a date in 1990 --

MR. KILLORY: Have patience. Have patience.

MR. NUNLEY: Well, it's not a matter of patience. I just want to make sure the record is clear. I'm trying to make it as precise as possible.

12:31:04

Q. Within a -- during the years in which you were familiar with the testing results -- why don't you go ahead and change the tape.

THE VIDEO OPERATOR: We're going off the record. This is the end of videotape number 1. The time on the screen is 12:31:22.

(Discussion off the record.)

(Luncheon recess: 12:31 p.m.)

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